

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:06-CR-162
)	(JORDAN/SHIRLEY)
WINDELL BRIAN STEPHENS,)	
)	
Defendant.)	
)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. The parties appeared before the undersigned on January 16, 2007, for a motion hearing on Defendant's Motion To Extend Motion Cut-Off Deadline [Doc. 11] and Motion To Substitute Counsel [Doc. 12], both filed on January 3, 2007. Assistant United States Attorney Brownlow Marsh appeared on behalf of the government. Attorney Jonathan Moffatt was present as appointed counsel for Defendant and Attorney James Webster was present as Defendant's newly retained counsel. Defendant Stephens was also present at the hearing.

The Court first took up Defendant's Motion To Substitute Counsel [Doc. 12], filed by Mr. Moffatt. In said motion, Mr. Moffatt asks the Court to substitute counsel for Defendant because Defendant has informed him that James Webster has been hired to represent Defendant in this matter. At the hearing, Mr. Webster represented to the Court that he had, in fact, been retained as counsel for Defendant and Defendant also stated to the Court that he wanted Mr. Webster to be

substituted as his counsel of record. The government stated that it had no objection to said substitution.

Accordingly, the Court **GRANTS** the Motion To Substitute Counsel [Doc. 12]. Mr. Moffatt is allowed to withdraw from the case, and Mr. Webster is hereby **SUBSTITUTED** as Defendant Stephens's counsel of record. In light of Defendant's retaining Mr. Webster as counsel in this matter and Mr. Moffatt's proffer that Mr. Webster has been retained for several weeks now, the Court hereby finds the Order requiring Defendant to pay \$2000.00 toward his representation [Doc. 8] to be **MOOT**.

Next, the Court took up Defendant's Motion To Extend Motion Cut-Off Deadline [Doc. 11], filed on January 3, 2007 by Mr. Moffatt. At the hearing, Mr. Webster stated that he believed the motion was necessary because he needed additional time within in which to assess the need to file pretrial motions in this case. The government stated that it had no objection to said request.

Finding that Defendant has shown good cause for an extension, the Court hereby **GRANTS** the motion [Doc. 11] and extends the deadline for filing motions to **January 19, 2007**. The government's deadline for responding to any motion is likewise extended to **January 24, 2007**. All other dates in this case, including the **January 26, 2007** pretrial conference/motion hearing, shall remain the same at this time.

Finally, at the hearing, the government made an oral motion to unseal the Indictment based on the fact that information regarding the Indictment and Defendant Johnson, who has not yet been arrested in this case, had already been published in a local newspaper. Accordingly, the Court **GRANTS** the government's oral motion to unseal the Indictment.

Accordingly, it is **ORDERED**:

- (1) Defendant's Motion To Substitute Counsel [**Doc. 12**] is **GRANTED**. Attorney Jonathan Moffatt is allowed to withdraw from the case and Attorney James Webster is hereby **SUBSTITUTED** as Defendant's counsel of record;
- (2) Defendant's Motion To Extend Motion Cut-Off Deadline [**Doc. 11**] is **GRANTED**;
- (3) The Court's Order requiring Defendant to pay \$2000.00 toward his representation [**Doc. 8**] is now **MOOT**;
- (4) A new motion deadline is set for **January 19, 2007**;
- (5) Responses are due on **January 24, 2007**;
- (6) All other dates, including the **January 26, 2007** pretrial conference/motion hearing, shall remain the same at this time; and
- (7) The Court **GRANTS** the government's oral motion to unseal the Indictment.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge